



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

ERALD C. MANN  
ATTORNEY GENERAL

Hon. J. P. Bryan  
County Attorney  
Brazoria County  
Angleton, Texas

Dear Sir:

Opinion No. 0-2087

Re: Construction of the phrase "physical plant", as it appears in House Bill 700, Forty-sixth Legislature.

In your letter of recent date you request our opinion with reference to the construction, in certain particulars, of Section 3 of House Bill 700, Forty-sixth Legislature, (Acts 1939, 46th Leg., p. 251; Art. 212a, Penal Code).

The pertinent provisions of this Act read as follows:

"Sec. 1. That no newspaper, magazine, or other publication, published daily, biweekly, weekly, monthly, or at other intervals shall sell, solicit, bargain for, offer, or accept for money, other consideration, or favors, any kind or manner of political advertising from more than one candidate for any or all local, county, State, or Federal offices, unless such publication shall have been published and distributed generally for at least twelve (12) months next preceding the acceptance of the advertising.

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"Sec. 3. And provided further that Section 1 of this Act shall not apply to publications which have, prior to the acceptance of political advertising from more than one candidate, been published and circulated generally

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for a period of less than one year immediately preceding the acceptance of such advertising in the event that such publication can show ownership of its physical plant and that its advertising rates are in proportion to the amount and kind of its circulation."

Section 1 of the Act contains its prohibitions; the existence of the facts set out in Section 3 remove the publication from its operation. You request our opinion touching the requirement in Section 3 of ownership of the physical plant, as to the meaning of the phrase "physical plant."

It is our opinion, as you have also concluded, that the term "physical plant" was intended to include the physical equipment necessarily involved in the publication of the particular newspaper or magazine. We do not believe that a publication which is unable to show ownership of the equipment which prints its newspaper or magazine, or other publication, would come within Section 3 of the Act.

We are not, of course, passing upon the question of the constitutionality of this law.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Zollie C. Steakley*  
Zollie C. Steakley  
Assistant

ZCS:ob

APPROVED MAR 28, 1940

*Ernest Mann*

ATTORNEY GENERAL OF TEXAS

